

**THIS DECISION HAS BEEN APPEALED. THE  
FOLLOWING IS THE RELATED SOAH DECISION NUMBER:**

**SOAH DOCKET NO. 453-04-5346.M5**

MDR Tracking Number: M5-04-0128-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 9-9-03.

The IRO reviewed medications from 9-13-02 through 11-6-02.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. The IRO determined that the medication "Methylpred" on 10-9-02 was medically necessary. The IRO agreed with the previous determination that the medication "Actiq" on 9-13-02, 10-9-02, and 11-6-02 was not medically necessary. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO. On 11-26-03, the requestor submitted documentation to support payment receipt for the medication Halicon. Therefore, fee issues no longer exist.

**ORDER**

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for date of service 10-9-02 in this dispute.

This Order is hereby issued this 18<sup>th</sup> day of February 2004.

Dee Z. Torres  
Medical Dispute Resolution Officer  
Medical Review Division

December 5, 2003

**NOTICE OF INDEPENDENT REVIEW DECISION  
Corrected Letter**

**RE: MDR Tracking #: M5-04-0128-01**

\_\_\_ has been certified by the Texas Department of Insurance (TDI) as an independent review organization (IRO). \_\_\_ IRO Certificate Number is 5348. Texas Worker's Compensation Commission (TWCC) Rule §133.308 allows for a claimant or provider to request an independent review of a Carrier's adverse medical necessity determination. TWCC assigned the above-reference case to \_\_\_ for independent review in accordance with this Rule.

\_\_\_ has performed an independent review of the proposed care to determine whether or not the adverse determination was appropriate. Relevant medical records, documentation provided by the parties referenced above and other documentation and written information submitted regarding this appeal was reviewed during the performance of this independent review.

This case was reviewed by a practicing physician on the \_\_\_ external review panel. The reviewer has met the requirements for the ADL of TWCC or has been approved as an exception to the ADL requirement. This physician is board certified in anesthesiology. The \_\_\_ physician reviewer signed a statement certifying that no known conflicts of interest exist between this physician and any of the treating physicians or providers or any of the physicians or providers who reviewed this case for a determination prior to the referral to \_\_\_ for independent review. In addition, the \_\_\_ physician reviewer certified that the review was performed without bias for or against any party in this case.

Clinical History

This case concerns a 53 year-old female who sustained a work related injury on \_\_\_. The patient reported that while at work she fell from her chair injuring her back. The patient underwent an MRI of the hip, neck and back, CT myelogram and also underwent a bone scan. Treatment for this patient's condition has included medications, epidural steroid injections, nerve root blocks at the L4-5 level and a dorsal column stimulator placed in 1998 that was subsequently removed on 2/16/02. The diagnoses for this patient include lumbosacral radiculopathy, situational depression with suicidal ideation, bilateral lower extremity edema and anxiety attacks. Currently the patient is being treated with medications that include Actiq, OxyContin controlled release, Zanaflex, Trazodone, Wellbutrin SR, Lidoderm Patch, Xanax and Halcion prn.

Requested Services

Actiq on 9/13/02, 10/9/02 and 11/6/02 and Methylpred on 10/9/02.

### Decision

The Carrier's determination that these services were not medically necessary for the treatment of this patient's condition is partially overturned.

### Rationale/Basis for Decision

The \_\_\_ physician reviewer noted that this case concerns a 53 year-old female who sustained a work related injury to her low back on \_\_\_.

The \_\_\_ physician reviewer indicated that the diagnoses for this patient include lumbosacral radiculopathy, situational depression with suicidal ideation, bilateral lower extremity edema and anxiety attacks. The \_\_\_ physician reviewer noted that the patient has undergone treatment that included medical therapy, epidural steroid injections, nerve root blocks at the L4-L5 level and a dorsal column stimulator placed in 1998 that was removed on 2/16/02. The \_\_\_ physician reviewer explained that the current regimen for this patient includes Actiq, Oxycontin, Zanaflex, Trazadone, Wellbutrin SR, Lidoderm Patch, Xanax and Halcion.

The \_\_\_ physician reviewer noted that evaluations of this patient have revealed multiple functional findings and significant non-anatomic abnormalities suggesting significant overlay. The \_\_\_ physician reviewer explained that Actiq is FDA approved for breakthrough pain in malignant conditions. The \_\_\_ physician reviewer also explained that there are no peer-reviewed studies advocating use of Actiq for non-malignancy related chronic pain syndromes.

The \_\_\_ physician reviewer indicated that methylprednisolone has an anti-inflammatory role and would be considered appropriate given this patient's complaints of chronic low back pain with radicular symptoms. Therefore, the \_\_\_ physician consultant concluded that the Actiq on 9/13/02, 10/9/02 and 11/6/02 were not medically necessary to treat this patient's condition. However, the \_\_\_ physician consultant concluded that the Methylpred on 10/9/02 were medically necessary to treat this patient's condition.

Sincerely,